

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

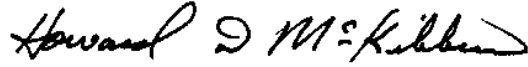
9 UNITED STATES OF AMERICA,)	3:12-cr-00015-HDM-WGC
)	3:14-cv-00231-HDM
10 Plaintiff,)	
)	
11 vs.)	ORDER
)	
12 CAMERON MUHLENBERG,)	
)	
13 Defendant.)	
)	

Before the court is the defendant's motion pursuant to Federal Rule of Civil Procedure 60(b) (#118). Defendant appealed his judgment of conviction on November 25, 2014. The matter remains pending before the Court of Appeals. The court lacks jurisdiction to consider a Rule 60(b) motion filed after a notice of appeal is filed and therefore cannot consider the instant Rule 60(b) motion. *Katzir Floor & Home Designs, Inc. v. M-MLS.com*, 394 F.3d 1143, 1148 (9th Cir. 2004); *Gould v. Mutual Life Ins. Co.*, 790 F.2d 769, 772 (9th Cir. 1986). While defendant's motion involves his petition to correct, vacate or modify his sentence pursuant to 28 U.S.C. § 2255, the court similarly lacks jurisdiction to consider a § 2255 motion after a notice of appeal has been filed. See *United States v. Kobey*, 109 F. Supp. 687 (S.D. Cal. 1953). Accordingly, the defendant's Rule 60(b) motion is hereby **DISMISSED** for lack of

jurisdiction.

IT IS SO ORDERED.

DATED: This 15th day of December, 2015.

A handwritten signature in black ink, appearing to read "Howard D. McKibben". The signature is written in a cursive, flowing style.

UNITED STATES DISTRICT JUDGE